

## REMARKS

Entry of the foregoing amendments and reconsideration and withdrawal of the final rejection is respectfully requested with respect to all of the claims now in the application, (i.e., Claims 18 and 20-22) in view of the following remarks.

Initially, in regard to the §112, first paragraph rejection of Claims 18-21, Applicant has deleted the language that the beverage container is grasped "solely at the point of the V-shaped fingers" and, as a result, the §112 rejection is rendered moot. Applicant has also amended Claim 18 to add a comma to correct the grammatical error.

In regard to the §103 rejection, at the heart of Applicant's invention is a beverage container holder that can firmly hold both round and square containers. This is accomplished by the V-shaped, spring-loaded tension fingers. It is respectfully submitted that none of the cited references disclose or suggest the presently claimed beverage container holder which includes V-shaped, flat resilient fingers, each of which has an upper fixed end and a lower free end and which define a point of a "V" between said ends thereof which extends radially inward generally towards the center of the respective rectangular opening to form a biasing structure for releasably supporting a beverage container inserted into said basket by cooperating to resiliently and releasably grasp both round and square beverage containers.

Particularly, none of the cited patents disclose or suggest the V-shaped fingers defining a point. Therefore even in combination, the references do not disclose or suggest the present invention. Particularly, as mentioned previously in the Amendment in Reply to Office Action dated April 23, 2009, Hartmann et al., fails to disclose or

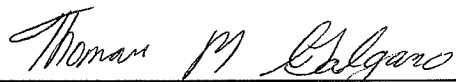
suggest V-shaped fingers defining a point of a "V" as the fingers are flat and planar (See Figs. 1-3). Additionally, Jackson fails to disclose or suggest any fingers in connection with the beverage holder. Furthermore, Bieck et al. fails to disclose or suggest V-shaped fingers defining a point of a V as the fingers in Bieck are flat on their inner most edge (See Fig. 2). Lastly, Miller discloses arcuate-shaped resilient discs and not V-shaped fingers (See Fig. 1). Therefore, the cited references in combination fail to disclose or suggest the structure of the claims as none of the references disclose or suggest V-shaped fingers defining a point of a V.

Lastly, Applicant requests a telephone interview with Examiner Duckworth and Supervisory Examiner Shriver.

In view of the foregoing, entry of the foregoing amendments, withdrawal of the final rejection and allowance of the claims at an early date is earnestly solicited.

Respectfully submitted,

JOSEPH E. PORCELLI



Thomas M. Galgano, Esq.

Registration No. 27,638

Jessica G. Bower, Esq.

Registration No. 64,438

GALGANO & ASSOCIATES, PLLC

Attorneys for Applicant

20 West Park Avenue, Suite 204

Long Beach, New York 11561

Telephone: 516.431.1177